

JOHN L. MUETHING
DONALD P. KLEKAMP*
TIMOTHY A. GARRY
GARY P. KREIDER
DON R. GARDNER
MICHAEL J. BURKE*
LOUIS F. GILLIGAN
JOSEPH P. ROUSE
RICHARD D. SIEGEL
JOSEPH L. TRAUTH,
JAMES R. WHITAKER*
J. DAVID ROSENBERG*

KEATING, MUETHING & KLEKAMP
ATTORNEYS AT LAW

18TH FLOOR PROVIDENT TOWER

ONE EAST FOURTH STREET

CINCINNATI, OHIO 45202

(513) 579-6400

RICHARD L. CREIGHTON, JR.
PAUL V. MUETHING
JEROME C. RANDOLPH
WILLIAM A. POSEY
WILLIAM J. KEATING, JR.
GENINA C. BOWMAN
MARK J. WEBER
KEVIN E. IRWIN
JAMES E. BURKE
GREGORY M. UTTER
ROBERT E. COLETTI
JAMES M. JANSING
SAMUEL J. SIMON
JOSEPH P. MELLEN

* ALSO ADMITTED TO
PRACTICE IN KENTUCKY

WILLIAM J. KEATING
COUNSEL

Direct Dial: 579-6415

INTERSTATE COMMERCE COMMISSION

Ms. Mildred Lee
Interstate Commerce Commission
12th and Constitution Avenue, N.W.
Room 2303
Washington, DC 20423

Dear Ms. Lee:

This firm is counsel to Sandra W. Heimann. Accompanying this letter for recordation in the order listed below pursuant to 49 U.S.C. 11303 are an original and three counterparts of each of the following documents:

(1) Security Agreement between Sandra W. Heimann, Owner, and The Provident Bank, Lender dated December 7, 1983.

(2) Assignment of Contract Rights and Rents between Sandra W. Heimann, Owner, and The Provident Bank, Lender, dated December 7, 1983.

The names and addresses of the parties to these documents are as follows:

Sandra W. Heimann
7315 Sanderson Place
Cincinnati, OH 45243

The Provident Bank
One East Fourth Street
Cincinnati, OH 45202

Attention: Phillip R. Myers

The equipment covered by the documents consists of seven (7) 100-ton 52'6" gondola cars, having identifying marks of CAGY 13007, 13014, 13016 and 13029-13032 (both inclusive).

No. 3 - 346 A031
Date DEC 12 1983
Fee \$ 100.00.....

ICC Washington, D. C.

RECEIVED
DEC 17 9 16 AM '83

Interstate Commerce Commission
December 7, 1983
Page 2

I am also enclosing our check in the amount of \$100 in payment of your recordation fees.

Please return two stamped copies of each of the enclosed documents and this letter to:

Keating, Muething & Klekamp
18th Floor, Provident Tower
One East Fourth Street
Cincinnati, OH 45202

Attention: James R. Whitaker

Sincerely,

KEATING, MUETHING & KLEKAMP

BY:


James R. Whitaker

crg

Enclosures

Interstate Commerce Commission

Washington, D.C. 20423

12/12/83

OFFICE OF THE SECRETARY

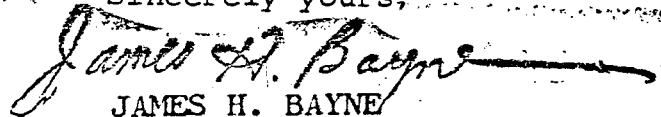
**Keating, Muething & Klekamp
18th Floor, Provident Tower
One East Fourth Street
Cincinnati, Ohio 45202**

Attn: James R. Whitaker

Dear **Sir:**

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on **12/12/83** at **9:25am** and assigned re-
recording number(s). **14216 & 14216-A**

Sincerely yours,



JAMES H. BAYNE

Secretary

Enclosure(s)

SE-30
(7/79)

JOHN L. MUETHING
DONALD P. KLEKAMP *
TIMOTHY A. GARRY
GARY P. KREIDER
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SAMUEL J. SIMON
JOSEPH P. MELLEN

* ALSO ADMITTED TO
PRACTICE IN KENTUCKY

February 8, 1984

Direct Dial: 579-6415

Ms. Mildred Lee
Interstate Commerce Commission
12th and Constitution Avenue, N.W.
Room 2303
Washington, DC 20423

Dear Ms. Lee:

Pursuant to our conversation of this afternoon, I am enclosing a stamped copy of an Assignment of Contract Rights and Rents and a Security Agreement in exchange for your returning to me the originally signed copies of both of these agreements.

Please give me a call with any questions you may have.

Sincerely,



CLAUDIA R. GLENN
Secretary to James R. Whitaker

Enclosures

lce

RECORDATION NO. 14216 Filed 1425

SECURITY AGREEMENT

DEC 12 1983 -9 25 AM

INTERSTATE COMMERCE COMMISSION

BETWEEN

SANDRA W. HEIMANN, OWNER

AND

THE PROVIDENT BANK, LENDER

DATED DECEMBER 7, 1983

(COVERING SEVEN 52'6" 100-TON GONDOLAS)

Filed and recorded with the Interstate Commerce Commission
pursuant to the Interstate Commerce Act on _____,
1983 at _____, Recordation No. _____.

SECURITY AGREEMENT

THIS SECURITY AGREEMENT (the "Agreement") is made and entered into on this 7th day of December, 1983 by and between SANDRA W. HEIMANN ("Owner") and THE PROVIDENT BANK ("Lender").

W I T N E S S E T H:

WHEREAS, Owner is the sole owner of seven (7) 100-ton 52'6" gondola cars ("Units") purchased from Thrall Car Manufacturing Company;

WHEREAS, Owner and Lender have entered into a Loan Agreement of even date herewith providing for the loan to Owner pursuant to a Promissory Note of the principal sum of One Million Four Hundred Seven Thousand Dollars (\$1,407,000);

WHEREAS, Owner has entered into an Agency and Pooling Agreement dated as of March 25, 1980 ("Agency Agreement") pooling the Units with forty-three (43) other gondola cars and appointing Railway Freight Car Services, Inc., a New York corporation, as Agent for the Owner;

WHEREAS, Railway Freight Car Services, Inc. ("Agent") has entered into a Management Agreement dated as of March 25, 1980 ("Management Agreement") with the Columbus & Greenville Railway Company ("Manager") for the management of the Units; and

WHEREAS, Lender, as a condition to making the aforesaid loan and as security therefor has required a grant of a security interest in the Units and has further required the agreement and undertaking of Owner hereinafter set forth.

NOW, THEREFORE, in consideration of the premises and of the mutual agreements contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

(1) As security for the prompt and complete payment when due of the principal of and interest on the Promissory Note and the payment of all other sums due and owing under the Loan Agreement or this Agreement (all of the foregoing being hereinafter called the "Obligations"), the Owner does hereby assign, convey, mortgage, pledge and transfer to the Lender and does hereby grant to the Lender a continuing security interest in the Units and any and all proceeds thereof.

(2) In order to induce the Lender to enter into this Agreement and to make the loan under the Loan Agreement, the Owner represents and warrants to the Lender that:

(a) The Agency Agreement and the Management Agreement have been duly authorized, executed and delivered by the parties thereto and constitute the legal, valid and binding obligations of the parties thereto enforceable in accordance with their terms.

(b) The Owner has good and valid title to, and is the lawful owner of, the Units more fully described in Exhibit A hereto, free and clear of all liens whatsoever, except the lien and security interest created by this Agreement.

(c) Each Unit conforms to all Department of Transportation and Interstate Commerce Commission requirements and specifications and to all standards recommended by the Association of American Railroads applicable to railroad equipment of the same type as the Units.

(d) Upon the filing of this Agreement in the manner prescribed in Section 11303, Title 49 of the United States Code and in the related regulations of the Interstate Commerce Commission and the filing of financing statements covering the collateral in the Office of the Secretary of State of Ohio and the County Recorder of Hamilton County, Ohio, this Agreement will constitute a legal, valid and binding perfected first lien on and first priority security interest in each of the Units described herein as security for the Obligations, free and clear from all other liens except liens permitted under the Agency Agreement or Management Agreement.

(3) The Owner agrees to preserve the Units during the term of this Agreement and agrees as follows:

(a) The Owner will not create, permit or suffer to exist and would defend the collateral against, and take such other action as is necessary to remove, any lien, claim or right in or to the Units (other than the lien and security interest created by this Agreement and liens permitted under the Agency Agreement and the Management Agreement) and would defend the right, title and interest of the Lender in and to the Units and the proceeds thereof against the claims and demands of all other persons whomsoever.

(b) The Owner will not, without the prior written consent of the Lender, sell, transfer or otherwise dispose of the Units or attempt or offer to do so.

(c) The Owner will advise the Lender promptly, in reasonable detail, of any lien or claim made or asserted against any of the Units or of any event affecting the Lender's lien on and security interest in the Units.

(4) The Owner will at all times during the term of the aforesaid loan, affect and maintain or cause to be affected and maintained with financially sound and reputable companies, insurance policies:

(a) insuring each such Unit against loss by fire, explosion, theft and such other casualties as are usually insured against by companies engaged in the ownership and leasing of railroad freight cars and with coverage in an amount at least equal to the Casualty Value of such Unit; and

(b) insuring the Owner and Lender against liability for personal injury and property damage caused by or relating to such Units or their use with coverage in an amount of at least Ten Million Dollars (\$10,000,000). All such insurance policies shall be in such form and have such coverage as shall be reasonably satisfactory to the Lender and provide for at least thirty (30) days' prior written notice to the Lender before any cancellation, reduction in amount or change in coverage thereof shall be effective and contain a breach of warranty clause in favor of Lender.

(5) In the event any Unit shall become lost for a period of at least thirty (30) consecutive days, or shall be stolen, destroyed or irreparably damaged from any cause whatsoever, or upon the occurrence of the confiscation, condemnation, seizure, forfeiture of, or other requisition of, title to, or use of, such Unit by any governmental authority ("Casualty Occurrence"), the Owner shall promptly give the Lender written notice of such Casualty Occurrence. On the next date for the payment of any installment of principal and interest on the Promissory Note following the date of such Casualty Occurrence, the Owner shall pay to the Lender an amount obtained by multiplying the unpaid principal balance of the Promissory Note under the Loan Agreement at the time set for payment of the Casualty Value by a fraction, the numerator of which is the invoice cost of such Unit and the

denominator of which is the sum of the invoice costs of all Units which are then subject to the lien and security interest of this Agreement and the invoice costs of the barges called the BB 113, BB 114, CIA 134, CIA 135, CIA 136 and CIA 186 then subject to the lien of the First Preferred Mortgage of Vessels of even date herewith ("Casualty Value"). Upon the Owner's compliance with the foregoing provisions of this Section, the Lender will, if no Event of Default under the Promissory Note has occurred and is continuing, execute and deliver to the Owner such instruments as shall be necessary to release such Unit from the lien and security interest of this Agreement (without recourse to, or representation or warranty by, the Lender).

(6) The Owner hereby agrees to perform all of her duties and obligations under the Agency Agreement and the Management Agreement and will promptly give written notice to the Lender of the occurrence of any Default or Event of Default under the Promissory Note or under the Agency Agreement or the Management Agreement.

(7) Whenever an Event of Default under the Promissory Note shall occur and be continuing:

(a) all payments received by the Owner in connection with or arising out of any of the Units shall be held by the Owner in trust for the Lender, shall be segregated from other funds of the Owner and shall forthwith upon receipt by the Owner be turned over to the Lender, in the same form as received by the Owner; any and all such payments so received by the Lender may, in the sole discretion of the Lender, be held by the Lender as collateral security for the Obligations, and/or then or at any time thereafter be applied in whole or in part by the Lender against all or part of the Obligations then due in such order as the Lender shall elect;

(b) the Lender may institute suits, actions and proceedings for the collection of all amounts then payable in respect of the Obligations and enforce any judgment obtained;

(c) the Lender may exercise in addition to all other rights and remedies granted to it in this Agreement and in any other instrument or agreement securing, evidencing or relating to the Obligations, all rights and remedies of a secured party under the Uniform Commercial Code of the State of Ohio. Without limiting the generality of the foregoing, the Owner expressly agrees that in any such event the Lender,

without demand of performance or other demand, advertisement or notice of any kind to or upon the Owner or any other person, may forthwith collect, receive, appropriate and realize upon the Units or any part thereof and may take possession of the Units and/or may forthwith sell, assign, give option or options to purchase or sell, lease or otherwise dispose of and deliver the Units, or any part thereof, in any manner permitted by applicable law in one or more parcels at a public or private sale or sales, at the office of any broker or at any of the Lender's offices or elsewhere at such places as it may deem best, for cash or on credit or for future delivery without assumption of any credit risk with the right of Lender upon any such sale or sales, public or private, to purchase the whole or any part of the Units sold, free of any right or equity of redemption of the Owner, which right or equity of redemption is hereby expressly waived or released to the extent permitted by law. The Owner further agrees, at the Lender's request, to collect the Units and make them available to the Lender at places which the Lender shall reasonably select. The Lender shall apply the net proceeds of any such collection, recovery, receipt, appropriation, realization and sale, after deducting all reasonable costs and expenses of every kind incurred therein or incidental to the care, safekeeping or otherwise of any or all the Units or in any way relating to the rights of the Lender hereunder, including reasonable attorney's fees and legal expenses, to the payment in whole or in part of the Obligations, in such order as the Lender may elect, the Owner remaining liable for any deficiency remaining unpaid after such application and only after so applying such net proceeds, and after the payment by the Lender of any other amount required by any provision of law need the Lender account for the surplus, if any, to the Owner. To the extent permitted by applicable law, the Owner waives all claims, damages and demands against the Lender arising out of repossession, retention or sale of the Units. The Owner hereby waives presentment, demand, protest and any notice (to the extent permitted by applicable law) of any kind in connection with this Agreement or the Units.

(8) No failure to exercise and no delay in exercising, by the Lender, any right, power or privilege under this Agreement or the Security Documents shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or thereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies provided herein and therein

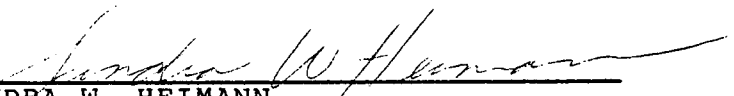
are cumulative and not exclusive of any rights or remedies provided by law.

(9) The provisions of this Agreement may from time to time be amended, supplemented or otherwise modified or waived only by a written agreement signed by the Owner and the Lender.

(10) This Agreement shall be binding upon and inure to the benefit of the Owner and the Lender and their respective heirs, administrators, executors, successors and assigns, except that the Owner may not transfer or assign any of her rights hereunder without the prior written consent of the Lender.

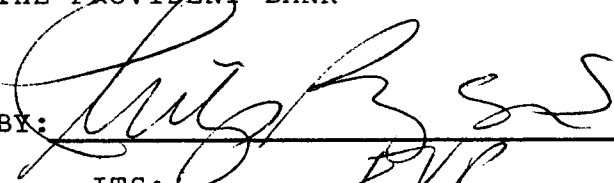
(11) This Agreement and the rights and obligations of the parties hereunder shall be governed by and construed and interpreted in accordance with the laws of the State of Ohio.

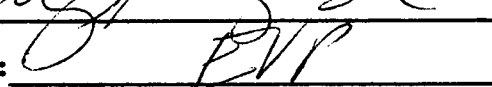
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered on the day and year first above written.



SANDRA W. HEIMANN

THE PROVIDENT BANK

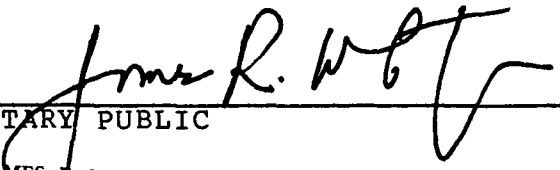
BY: 

ITS: 

STATE OF OHIO)
 : SS.
COUNTY OF HAMILTON)

On this 7th day of December, 1983, before me personally appeared Sandra W. Heimann, to me known to be the person des-

cribed in and who executed the foregoing instrument, and she
acknowledged that she executed the same as her free act and deed.



NOTARY PUBLIC

(Seal)

JAMES R. WHITAKER, Attorney at Law
Notary Public, State of Ohio

My commission expires: _____

My commission has no expiration date
Section 147.03 O. R. C.

EXHIBIT A
TO
SECURITY AGREEMENT

<u>Specifications</u>	<u>Quantity</u>	<u>Manager's Road Number</u>
100-ton 52'6" gondola cars	7	13007, 13014, 13016 and 13029- 13032 (both inclusive)